

1  
2  
3  
4  
5  
6  
7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 PERCY LEVY,

11 Plaintiff,

12 v.

13 WASHINGTON STATE DEPARTMENT  
14 OF CORRECTIONS, et al,

15 Defendants.  
16  
17

Case No. C08-5694RJB-KLS

ORDER ADOPTING  
REPORT AND  
RECOMMENDATION,  
DISMISSING  
PLAINTIFF'S FEDERAL  
CLAIMS, AND  
REMANDING  
PLAINTIFF'S STATE  
CLAIMS

18 The Court, having reviewed plaintiff's complaint, the Report and Recommendation of Magistrate  
19 Judge Karen L. Strombom (Dkt. 9), objections to the Report and Recommendation (Dkt. 12), response to  
20 the objections to the Report and Recommendations (Dkt. 13), Supplement to Plaintiff's Objections to  
21 Report and Recommendation (Dkt. 14) and the remaining record, does hereby find and **ORDER:**

22 (1) In the plaintiff's objections (Dkt. 12) and supplement (Dkt. 14), he argues (1) that the relief  
23 requested was unavailable to him, and (2) that the plaintiff could have only filed one grievance and  
24 would have been barred from bringing the other claims because he had four grievances already  
25 pending; specifically, the plaintiff states that prisoner grievances are limited to five pending at one  
26 time, the prisoner must grieve each issue within 20 days of its occurrence, and the prisoner must  
27 break separate issues out into individual grievances. Dkt. 13 at 5. The plaintiff's objections are  
28 without merit because the plaintiff failed to exhaust his administrative remedies for all claims and

1 there was additional relief available to the plaintiff, which he did not pursue prior to filing this suit.

2 (2) the Court **ADOPTS** the Report and Recommendation (Dkt. 12);

3 (3) Defendants' Motion to Dismiss for Failure to Exhaust Administrative Remedies (Dkt. 3) is

4 **GRANTED** in so far as follows:

5 (a) The federal claims contained in plaintiff's complaint are hereby **DISMISSED**  
6 without prejudice; and

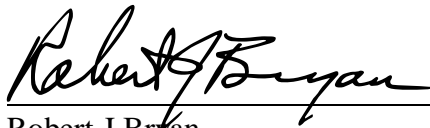
7 (b) The Court **DECLINES** to exercise supplemental jurisdiction over the plaintiff's  
8 state law claims; and

9 (c) The remaining state claims contained in the complaint are hereby **REMANDED** to  
10 Superior Court for Thurston County;

11 (4) This dismissal does not qualify as a strike under 28 U.S.C. § 1915(g).

12 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any  
13 party appearing *pro se* at said party's last known address. The Clerk is further directed to send certified  
14 copies of this order to the Clerk of the Court for Thurston County Superior Court.

15 DATED this 23<sup>rd</sup> day of April, 2009.

16  
17 

18 Robert J Bryan  
19 United States District Judge  
20  
21  
22  
23  
24  
25  
26  
27  
28